

REMARKS

The specification has been amended to make editorial changes therein, bearing in mind the criticisms in the Official Action, to place the application in condition for allowance at the time of the next Official Action.

The Official Action objects to the form of claim 27, which has been canceled. Withdrawal of the objection is respectfully requested.

Claims 22-27 were provisionally rejected under §101 as claiming the same invention as the claims in S.N. 10/691,499. S.N. 10/691,499 will have been abandoned for not responding to the Official Action of April 11, 2005. Withdrawal of the provisional rejection is respectfully requested.

Claims 24-26 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 31-38 of S.N. 10/377,723. Please make of record the Terminal Disclaimed that accompanies this response. Upon acceptance of the Terminal Disclaimer, withdrawal of the provisional rejection is respectfully requested.

Claims 22 and 27 (the subject matter of which has been moved to claim 24) were rejected under §112, first paragraph, as it is alleged that the specification does not describe how to make and use the binding layer having hydrated calcium aluminate particles of less than 2 μ m and the bulk layer having hydrated

calcium aluminate particles having a grain size between 3 and 30 μm (underlining in the Official Action).

The specification suggests that ball milling may be used to provide grains less than 10 μm (page 15). Further, the production of particles of less than 2 μm and a grain size between 3 and 30 μm is a routine matter for one of skill in the art and the present specification need not describe how to provide such particles as this is common knowledge. For example, methods such as jet milling or grinding in combination with separation of particles greater than 2 μm are common and known in the art. Grain sizes between 3 and 30 μm may be routinely provided by any standard milling and separation method, for example. Reconsideration and withdrawal of the rejection are respectfully requested.

Claims 22-27 were rejected under §112, second paragraph, and have been amended as to form or canceled. Reconsideration and withdrawal of the rejection are respectfully requested.

Claims 24-26 were rejected as anticipated by or unpatentable over ARIMA et al. 5,480,438. Reconsideration and withdrawal of the rejection are respectfully requested as claim 24 has been amended to include the subject matter of claim 27.

In view of the present amendment and the foregoing remarks, it is believed that the present application has been

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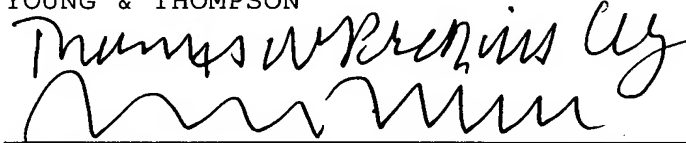
placed in condition for allowance. Reconsideration and allowance
are respectfully requested.

Please charge the terminal disclaimer fee of \$65 to
Deposit Account No. 25-0120.

The Commissioner is hereby authorized in this,
concurrent, and future replies, to charge payment or credit any
overpayment to Deposit Account No. 25-0120 for any additional
fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON

A handwritten signature in dark ink, appearing to read 'Thomas W. Perkins', written over a horizontal line.

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TWP/lrs

APPENDIX:

The Appendix includes the following item:

- a Terminal Disclaimer